REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-14 and 44-53 remain under consideration. Claims 15-43 were withdrawn from consideration by the Examiner. According to the Office Action:

- Claims 1-14, and 48-52 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.
- Claims 1-14 and 48-52 were indicated to be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. § 112, second paragraph.
- Claims 44-47 and 53 were allowed.

Applicants thank the Examiner for the indication of allowed and allowable subject matter. For at least the following reasons, it is respectfully submitted that the rejection under 35 U.S.C. § 112, second paragraph, should be withdrawn and that claims 1-14 and 44-53 are in condition for allowance.

Rejection of Claims 1-14 and 48-52 Under 35 U.S.C. § 112, Second Paragraph

Claims 1-14 and 48-52 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

The test for definiteness under 35 U.S.C. § 112, second paragraph, is whether those skilled in the art would understand what is claimed when the claim is read in light of the specification. The Examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. § 112, second paragraph, is whether the claim meets the threshold requirements of clarity and precision, not whether more suitable language

or modes of expression are available. *See* M.P.E.P. § 2173.02. When the Examiner is satisfied that patentable subject matter is disclosed, and it is apparent to the Examiner that the claims are directed to such patentable subject matter, he "should allow claims which define the patentable subject matter with a reasonable degree of particularity and distinctness." *Id.* Some latitude in the manner of expression and the aptness of terms should be permitted. *Id.*

With respect to claims 1 and 48, the Office Action states that:

> it is claimed that a magnitude of an apparent depression of the wafer surface is due to translation of the beam. Para 00054 discloses that the apparent surface depression is caused by the Goos-Haenchen shift, which is a lateral translation of light along a reflecting surface. Para 00060 also discloses that the depression arise[s] because of the beam of light translated along the surface. However, in para 00059, it is disclosed that the light is displaced because of the depression. It is not clear whether the depression is caused by the translation or whether the translation is caused by the depression.

In response, the rejection is respectfully traversed. The rejection fails to consider the difference between a depression in the substrate and an "apparent" depression. The portion of claims 1 and 48 cited by the Examiner recites an "apparent" depression. One having ordinary skilled in the art would readily understand from the specification and the claims that a distinction exists between a depression in the substrate and an "apparent" depression.

As described in Paragraph 00059, an actual depression (e.g., 3a) in the substrate causes a translation or displacement of a reflected light beam (e.g., from solid line 1 to dashed line 1a). This is illustrated by way of example in Figure 2. An "apparent" depression, on the other hand, is a consequence of light translating along a reflecting surface (as described in Paragraph 00060). The Goos-Haenchen shift (which is a lateral translation of light along a reflecting surface), as described in Paragraph 00054, merely makes it appear as though a surface depression exists, and thereby creates an "apparent" surface depression (not

an actual surface depression in the substrate). The specification therefore sufficiently and accurately describes the distinction between a depression that exists in the substrate and an "apparent" depression. The former causes translation of a light beam, while the latter is a consequence (or results from) a shift or translation of a light beam (e.g., as a result of a Goos-Haenchen shift).

Applicants respectfully submit that one having ordinary skill in the art would readily understand from the claims and the specification what Applicants regard as the invention, including the recitation in claims 1 and 48 of an "apparent" depression. The claims, while not limited to the embodiments of the specification, are consistent with the foregoing description. Thus, the claims particularly point out and distinctly claim the subject matter which Applicants regard as the invention. The claims therefore comply with 35 U.S.C. § 112, second paragraph.

With respect to claims 1, 7 and 8, the Office Action states that:

> it is not clear how the terms "layer" and "surface" are defined. Based on the amendment to para 00079, it seems that a coating is considered a "surface" since Fig. 10 and corresponding amendment to para 00079 seem to have been added in response to the objection to the drawings indicating that the claimed features of claims 7 and 8 are not shown in the drawings. Then in a response to the [35 U.S.C. § 112] rejection, applicant cited the language in para 00074 which seems to indicate that a coating is considered a "layer." If the two terms have different meaning, applicant is requested to define the terms to distinguish the two terms, or if the terms are interchangeable, applicant is required to be consistent in the usage of the terms for clarity.
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> The remaining claims, not specifically mentioned, are rejected for incorporating the defects from the base claim by dependency.

In response, it is respectfully submitted that one having ordinary skill in the art would readily appreciate from the specification and claim language what is meant by the terms

"layer," "coating," and "surface." There is nothing indefinite about these terms. The term "coating," for example, can refer to a "layer" that coats or covers something else. Both a "coating" and a "layer" can have one or more "surfaces." A "surface" can be any outer boundary of a "layer" and/or of a "coating." Thus, "layer" can be provided in the form of a "coating" (if the layer at least partially covers something else, such as a substrate) and such a "layer" can have one or more surfaces (e.g., a surface that engages the thing being coated or an outside surface that is opposite to the thing being coated).

Applicants' use of these terms in the specification and claims is not inconsistent with dictionary usage of these terms, nor is it inconsistent with the meaning one having ordinary skill in the art would attribute to such terms. The use of these terms in the specification and claims is also consistent with the statements made in response to the previous rejection.

Since usage of the terms "coating," "layer," and "surface" in the claims and specification would be readily understood by one having ordinary skill in the art, it is respectfully submitted that there is nothing indefinite about the claims and that the rejection under 35 U.S.C. § 112, second paragraph, should be withdrawn.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.

Date: December 21, 2006 By: _____

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